

Plaintiff has filed the motion to certify a class before any discovery has been conducted. Indeed Plaintiff “requests leave to submit a brief and other evidence in support of [the] motion after discovery about the class elements.” (Pl.’s Br. 1) The Court concludes that Plaintiff’s motion is premature. A movant for class certification has the burden of demonstrating that all appropriate elements of Federal Rule of Civil Procedure 23 have been satisfied. General

Telephone Co. of the Southwest v. Falcon, 457 U.S. 147, 161 (1982); In re Hydrogen Peroxide Antitrust Litig., 552 F.3d 305, 307 (3d Cir. 2009). This includes the submission of evidence to support the contention that elements such as “numerosity,” Fed. R. Civ. P. 23(a)(1), “commonality,” Fed. R. Civ. P. 23(a)(2), “typicality,” Fed. R. Civ. P. 23(a)(3), “predominance,” Fed. R. Civ. P. 23(b)(3) and “superiority,” id., have been met. Plaintiff’s submission merely sets forth perfunctory conclusions that the class satisfies these requirements. Indeed, Plaintiff indicates that the proposed class definition itself will probably change after discovery. Under these circumstances, it is clear that Plaintiff has not met its burden under Rule 23, and the motion is denied without prejudice to being renewed following class discovery.

For these reasons,

**IT IS** on this 19<sup>th</sup> day of February, 2013,

**ORDERED** that Plaintiff’s motion for class certification (Docket Entry 4) be and hereby is **DENIED WITHOUT PREJUDICE**.

s/ Stanley R. Chesler  
Stanley R. Chesler, U.S.D.J.